



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 19, 2009

Mr. Erik Brown
Assistant General Counsel
Office of the General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR2009-06806

Dear Mr. Brown:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 343712.

The Texas Department of Criminal Justice (the "department") received a request for the portions of the requestor's personnel file that reflect negatively on the requestor or that could prevent his rehire. You state the department will provide some of the requested information to the requestor. You claim the submitted reprimands are excepted from disclosure under section 552.134 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.134 of the Government Code relates to inmates of the department and provides in relevant part:

- (a) Except as provided by Subsection (b) or by Section 552.029 [of the Government Code], information obtained or maintained by the [department] is excepted from [required public disclosure] if it is information about an inmate who is confined in a facility operated by or under a contract with the department.

Gov't Code § 552.134(a). Section 552.134 is explicitly made subject to section 552.029, which provides in relevant part:

[n]otwithstanding . . . Section 552.134, the following information about an inmate who is confined in a facility operated by or under a contract with the [department] is subject to required disclosure under Section 552.021:

(8) basic information regarding the death of an inmate in custody, an incident involving the use of force, or an alleged crime involving the inmate.

Id. § 552.029(8). The submitted information consists of employee reprimands. These reprimands include inmate-identifying information, which is generally excepted from disclosure under section 552.134. We note, however, reprimand DA# 88-0908 pertains to, among other things, a use of force incident involving an inmate. Basic information regarding a use of force incident is subject to required disclosure under section 552.029(8) of the Government Code. Basic information includes, among other things, names of inmates directly involved in the incident. Therefore, the inmate's identifying information in DA# 88-0908 is subject to release under section 552.029(8) and may not be withheld under section 552.134. Furthermore, the remaining information in DA# 88-0908 pertains to disciplinary action against a former corrections officer. This disciplinary information does not constitute information about an inmate for purposes of section 552.134, and may not be withheld on that basis. Consequently, DA# 88-0908 must be released in its entirety.

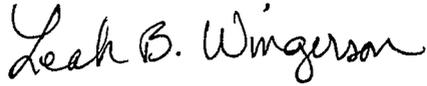
The remaining two reprimands, DA# 90-1640 and DA# 94-1234, do not involve incidents subject to section 552.029(8). Thus, we find the inmates' identities in DA# 90-1640 and DA# 94-1234 are subject to section 552.134. Accordingly, the department must withhold the marked inmate-identifying information in DA# 90-1640 and DA# 94-1234 under section 552.134 of the Government Code. Again, however, the remaining information in these reprimands pertains to disciplinary action against a former corrections officer. As noted above, this information may not be withheld under section 552.134. As you have claimed no other exceptions to disclosure for the remaining information, it must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in cursive script that reads "Leah B. Wingerson".

Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 343712

Enc. Submitted documents

c: Requestor
(w/o enclosures)